IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO. 4573/2006

MANMEET SINGH MEENA & AKASH
Vs.
UNIVERSITY OF RAJASTHAN & ORS.

Date: 05.12.2006.

HON'BLE MR. K.S. RATHORE, J.

Mr. Ved Prakash for the petitioners.
Dr. Y.C. Sharma for the respondents.

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R E P O R T A B L E

This joint writ petition has been preferred by the students-petitioners. Petitioner No.1 is LL.B. IIIrd Year student and petitioner No.2 is LL.B. IInd Year student. At the initial stage the impression was given by the petitioners that University is not allowing the petitioner No.1 to appear in the LL.B. IIIrd Year examinations and petitioner No.2 in LL.B. IInd Year examinations, therefore, looking to the facts that the examinations are scheduled to be held shortly, interim order was passed by this Court on 01.06.2006 and the University was directed to provisionally allow the petitioner No.1 in the examination of LL.B. IIIrd year and petitioner No.2 in LL.B. IInd year, but it was made clear that it will not create any equity in favour

of the petitioners and shall remain subject to decision of this writ petition and the University was further directed not to declare the result of the petitioners.

This Court vide interim order dated 20.10.2006, directed the learned counsel for the University to file an additional affidavit giving details as to whether the petitioners were given admission in regular course of the classes in question and whether they had attended sufficient number of classes in all the subjects prior to the relevant examination for which the interim order has been passed.

Pursuant to the directions of this Court, learned counsel appearing for the University has filed an additional affidavit and along with the additional affidavit he furnished the information with regard to petitioner Nos. 1 and 2.

So far as petitioner No.2 Akash is concerned, he was given admission only on 02.06.2006, which reveals that after granting ex parte interim order by this Court on 01.06.2006, he has been given admission in the LL.B. IInd year and so far as attendance of the student, it was given that he has not attended a single class during the remaining Session.

With regard to petitioner No.1 Manmeet Singh Meena, he was given admission in the LL.B. IIIrd year on 23.02.2006 and also not attended a single class.

Learned counsel appearing for the University has placed reliance on the judgment rendered by the Hon'ble Supreme Court in the case of ***National Board of Examinations Vs. G. Anand Ramamurthy & Ors., decided on 19.05.2006 and reported in AIR 2006 SC 2484,*** wherein the Hon'ble Supreme Court has reiterated that past practice followed by institution which is contrary to Rules cannot override statutory rules and regulations- Direction by High Court, to petitioner to hold examinations for respondents according to the schedule mentioned in Bulletin of 2003, was not proper as such relief not sought for.

Here in the instant case also, as per Ordinance 157-A(14) of the University of Rajasthan, which is reproduced hereunder:-

> **"O.157-A (14)-** A candidate who is declared eligible for supplementary examination as a result of revaluation shall be permitted to appear at the usual supplementary examination or, if the same is already over, at the time of the next main examination along with the higher examination. A candidate who becomes eligible for admission to a next higher class consequent upon

improvement of his result on revaluation in the middle of a session shall be considered eligible for admission to that class within 21 days from the date of issue of communication of the revaluation result but not later than 31st December of the same session. In such cases the attendance shall be counted from the date of admission. Where the facility of appearing as a non-collegiate candidate in such examinations exists he shall also be eligible to apply for permission to appear at an examination as a non-collegiate candidate within 21 days from the date of communication of the revaluation result.

Notes:

1. A candidate, who is declared eligible to appear at the Supple. Part III Exam., consequent upon re-valuation, and has yet to clear any subject(s)/Paper(s) of First and/or Part Second Exam. shall not be eligible for admission/appearing at the higher examination. He/she shall be permitted to appear in the Supple. subject along with the backlog of lower exam(s) at the main examination.

2. Candidates who would appear in lower examinations as well as in higher examination under Three Year Degree Course Scheme, consequent upon re-valuation and pass in higher examination but fail in lower examination, their result of higher examination shall be kept with-held till they clear the lower exam. Such candidates shall be required to re-appear at the lower exams. in all the subjects of the lower exams. as per scheme and syllabi in force.”

As per the Ordinance, the admission can only be given before 31st December, which reveals by the order passed by the University which is annexed along with the writ petition as Annexure-5 dated 29.05.2006, whereby University Law College has informed the petitioner No.2 Akash that Session is over and time table of the examinations is already issued, in such circumstances, admission was refused.

As per Ordinance 251(4), “A candidate who, after passing the LL.B. First Year Examination has completed a regular course of study for the Second Year LL.B. Class shall be eligible to appear at the LL.B. Second Year Examination.”

Further as per Ordinance 251(5), “A candidate who, after passing the LL.B. Second Year Examination has completed a regular course of study for the Third Year LL.B. Class shall be eligible to appear at the LL.B. Third Year Examination.”

Admittedly, in the instant case, both the petitioners have not pursued their studies, as is evident by the information furnished by the respondent University along with the additional affidavit and Nil attendance is there.

As per clause (3) of **Section-B (Three-year Law Course After Graduation)** of the Bar Council of India

Rules, the students shall be required to put in a minimum attendance of 66% of the lectures on each of the subjects as also at tutorials, moot courts and practical training course, which per se apparent that since the petitioners have not attended a single class, therefore, it is not possible for them to attend the regular class in tutorials, moot courts and practical training course.

The same controversy has been decided by this Court in ***S.B. Civil Writ Petition No. 3978/2005- Ravinder Kumar Samria Vs. University of Rajasthan & Anr.,*** vide judgment dated 31.05.2006.

I have considered all aspects and the relevant provisions of law as well as the details submitted by the learned counsel appearing for the respondent University.

It appears that the petitioners have mis-leaded the Court at the time of seeking ex parte interim order, which is apparent on the face of the record that the ex parte interim order has been passed on 01.06.2006 and admission to petitioner No.2 Akash in LL.B. IInd Year has been given on 02.06.2006. In the facts and circumstances, such students do not deserve any sympathy of the Court and such practice should be deprecated.

In view of the aforesaid observations and in view of the ratio decided by the Hon'ble Supreme Court and this Court and as per the University Ordinance as well as the Rules laid down by the Bar Council of India, the writ petition deserves to be dismissed and the admission of the petitioners in respective classes of LL.B. and the examinations which were conducted pursuant to the ex parte interim order passed by this Court stand cancelled.

Consequently, the writ petition stands dismissed.

(K.S. RATHORE),J.

/KKC/